

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

LICH THANH VU; and LAN THUY)
NGUYEN VU, personally and as)
the guardian of LICH THANH VU,)
Plaintiffs,)
v.) Case No. CIV-25-00426-JD
JOSEPH D. GIBSON; and CITY OF)
OKLAHOMA CITY,)
Defendants.)

ORDER

Before the Court is Plaintiffs' Second Amended Complaint. As indicated below, the Court ORDERS the parties to confer and file a notice with the Court by **Wednesday, August 13, 2025**, whether the Second Amended Complaint is filed with the opposing party's written consent or pursuant to some other basis under Federal Rule of Civil Procedure 15. If the Second Amended Complaint has not been properly filed, then Plaintiffs must file a motion seeking leave of the Court to file their Second Amended Complaint under Federal Rule of Civil Procedure 15(a)(2) and Local Civil Rule 15.1, by **Wednesday, August 13, 2025**.

By way of background, Plaintiffs filed their Original Complaint on April 14, 2025 [Doc. No. 1] and then a First Amended Complaint on June 15, 2025 [Doc. No. 13]. According to the First Amended Complaint, Plaintiffs filed it "pursuant to Fed. R. Civ. P. 15(a)(1)(B)." [Doc. No. 13 at 1 n.1]. Under that rule, "a party may amend its pleading *once* as a matter of course . . ." Fed. R. Civ. P. 15(a)(1)(B) (emphasis added).

In response to the First Amended Complaint, Defendant Joseph D. Gibson filed a partial motion to dismiss on July 18, 2025. [Doc. No. 23]. The Court ordered the parties to confer before Plaintiffs filed their response to the motion to dismiss. [Doc. No. 24]. On August 8, 2025, the response deadline to the motion to dismiss, Plaintiffs filed their Second Amended Complaint and a certificate of conference. [Doc. Nos. 25, 26].

On its face, the Second Amended Complaint suggests it is also being filed under Rule 15(a)(1)(B). *See* [Doc. No. 26 at 1 n.1] (stating the Second Amended Complaint is being filed “pursuant to Fed. R. Civ. P. 15(a)(1)(B)”). However, as noted above, Plaintiffs have already amended their complaint once as a matter of course, with the filing of their First Amended Complaint. Thus, Plaintiffs’ purported use of Rule 15(a)(1)(B) for further amendment appears to be improper. Based on the certificate of conference, it is not apparent to the Court whether Plaintiffs have “the opposing party’s written consent” for this second amendment under Rule 15(a)(2).

Therefore, the Court ORDERS the parties to confer and for Plaintiffs to file by **August 13, 2025**, either (1) a notice indicating they have the opposing party’s written consent to amend, under Rule 15(a)(2), for their Second Amended Complaint, or (2) a motion seeking leave of Court to file the Second Amended Complaint that complies with Federal Rule of Civil Procedure 15(a)(2) and Local Civil Rule 15.1. Alternatively, if Plaintiffs believe they have some other authority for the filing of their Second Amended Complaint, then they shall explain that to the Court in a filing made in response to this Order by **August 13, 2025**.

The deadlines relating to Defendant Joseph Gibson's motion to dismiss and the Second Amended Complaint are stayed, to be reset by the Court once the Court determines whether the filing of the Second Amended Complaint was proper.

Failure to comply with the Court's orders, the Federal Rules of Civil Procedure, and the Local Civil Rules may result in sanctions, including the striking or dismissal of pleadings or claims.

IT IS SO ORDERED this 8th day of August 2025.



JODI W. DISHMAN
UNITED STATES DISTRICT JUDGE